

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NORTH CAROLINA
RALEIGH DIVISION

FILED

DEC 02 2004

PEGGY B. DEANS, CLERK
U.S. BANKRUPTCY COURT
EASTERN DISTRICT OF N.C.

IN RE:

INTERNATIONAL HERITAGE, INC.

NO. 98-02675-5-ATS

INTERNATIONAL HERITAGE,
INCORPORATED

NO. 98-02674-5-ATS

DEBTOR

ORDER REGARDING PROVISION OF APPELLANT'S TRANSCRIPT

Pursuant to an order of this court entered on November 23, 2004, appellant Stanley Van Etten was granted leave to proceed in forma pauperis with respect to an appeal, to the district court, of an order entered in this court on October 19, 2004. Mr. Van Etten filed his notice of appeal and his designation of items to be included in the record on appeal on November 3, 2004. In the designation, Mr. Van Etten specified that a transcript of the hearing of October 14, 2004, should be included.

Although Mr. Van Etten already has been granted leave to proceed in forma pauperis with respect to the appeal, whether the government should bear the financial burden of providing a transcript of the hearing requires separate certification by the court that the appeal is not frivolous and, instead, presents a substantial question for appeal. The court cannot certify that Mr. Van Etten's appeal presents a substantial question because it clearly was filed well outside the ten-day time period specified in

Rule 8002(a) of the Bankruptcy Rules, and is for that reason subject to dismissal. The court does not reach the question of whether Mr. Van Etten's appeal is frivolous, and limits applicability of its finding that the appeal does not present a substantial question to the issue of whether the transcript should be provided at government expense. For the foregoing reason, it will not be provided, although Mr. Van Etten is entitled to obtain and include a copy at his own expense if he elects to proceed with this appeal.

SO ORDERED.

DATED: DEC 02 2004



A. Thomas Small
Bankruptcy Judge